Katrina vanden Heuvel [00:00:00] Some of you may have joined last week for the conversation with Reverend Barber, which was extraordinary and brought solace. Today, I think everyone on this call knows that the pandemic is stress-testing our health system and our economy; it’s also stress-testing our democracy. The incompetent, aspirational authoritarian in the White House, a GOP which insists, by its failure to support vote-by-mail, and other urgent election reforms that others who fought for the right to vote risk death to vote. Think of Wisconsin.

[00:00:35] Today, we have perhaps, I think, the wisest person in the United States that I want to hear from to help us think through how to rebuild a popular people’s democracy in these times, how to defend the Constitution in these times. I consider Representative Jamie Raskin from Maryland Tom Paine 2.0. A fellow free-thinker, Jamie is a longtime and fierce advocate and activist for popular democracy.

[00:01:00] Before his 2016 election to the House, Jamie was an important three-term State Senator in Maryland fighting for marriage equality, civil rights, civil liberties, the abolition of the death penalty, and a Green New Deal. He spent a quarter-century at American University’s Washington College of Law where he taught impeachment cases and earned recognition for his defense of the Constitution’s systems of checks and balances.

[00:01:28] I second the view of someone you may know, Harvard Law Professor Laurence Tribe, who says, “Raskin is the best constitutional lawyer in all of Congress. His clarity and dedication to truth will ultimately make the difference that the rule of law and the survival of constitutional democracy demand.”

[00:01:45] Jamie emerged as a key player in the House Judiciary Committee during the Trump impeachment in the same way that a previous generation of new members like Elizabeth Holtzman and Barbara Jordan stepped up during Watergate.

[00:01:55] He has long thought deeply about structural reforms, democracy reforms, a constitutional right to vote, a national popular vote to upend the electoral college’s grip, fair elections, overturning the travesty of the Supreme Court decision on Citizens United—all bold reforms we need to make this a true democracy. I would say many of these ideas are laid out in articles for The Nation stretching back three decades.

[00:02:20] I must end with a word about Jamie’s father, Marcus Raskin, whose birthday it would’ve been tomorrow. Mark was in the Kennedy administration. He worked for McGeorge Bundy. He was appalled by the madness of the nuclear arms race, and he was a questioner of the entrenched assumptions of the Cold War foreign diplomacy consensus.
He left to co-found the first truly independent D.C. think tank for policy studies; many of you may have heard of it. He had the “extraordinary conceit of speaking truth to power.” Mark became a fierce foe of the Vietnam War, worked with Daniel Ellis to get the Pentagon Papers to the New York Times, and emerged—as Jamie has—as one of the great radical thinkers of the late 20th, early 21st century. He was also a member of The Nation’s editorial board for more than four decades before his death in December 2017.

[00:03:18] Jamie, like his father, wants Americans to be inspired to believe again in the power of the people to make their government act. He understands that you do that acting boldly. As he has said, “My ambition is not to be in the political center, my ambition is to be in the moral center. We will get the political center to move to us.” Jamie is serious about this; you’ll hear more.

[00:02:40] I just want to introduce our very special guest today, who will be in conversation with Jamie briefly after Jamie’s piece. If I left it by saying John Nichols is The Nation’s national-affairs correspondent, that would surely be an act of “High Crimes and Misdemeanors.” John knows more about U.S. politics in this country than any working journalist that I know. A longtime Nation writer, I value his counsel and judgment enormously.

[00:04:04] The author of too many books to list in an hour call, but he has written about the Trumpocalypse [...] Dangerous People in America, The Genius of Impeachment, numerous books about how to build a media system worthy of our democracy. As a seventh-generation Wisconsinite, he was the key person covering the occupation of the statehouse, some of you may remember, which really led to Occupy Wall Street and his book from Wisconsin, Uprising.

[00:04:29] He’s a co-founder of Free Press, and I’m excited about his new book, The Fight for the Soul of the Democratic Party: The Enduring Legacy of Henry Wallace’s Anti-Fascist, Anti-Racist Politics. It is a book for our times, what progressives must do to take back our democracy. Of John, the author and longtime contributing editor of The Nation Gore Vidal once said of John, “Of all the giant slayers now afoot in the great American desert, John Nichols’ sword is the sharpest.”

[00:04:54] I’m going to end here. I simply want to say that Jamie’s son, Tommy, has also contributed to The Nation—we’ve got a three-generation Raskin grip on The Nation. And I welcome you all to join us next week for Bill McKibbon. We’ll have Naomi Klein in early June, Zephyr Teachout, Ai-jen Poo, Ilyse Hogue of NARAL. But to the inimitable and wonderful Jamie Raskin.
Katrina, thank you so much for those beautiful, lovely words. Thank you, especially, for invoking my father. You know, my dad used to say, “When everything looks helpless, you’re the hope.” I’m with my *Nation* family today, and I’m feeling the hope. I’m feeling the commitment and the passion that you guys are bringing to the task of defending democracy and defending our country at a moment when Donald Trump and his administration have brought us to our knees.

Thank you for inviting me to be on with you today. Thanks to John Nichols and to your editor, Don Guttenplan. Thanks to all of you for putting this together. It’s a high honor to join you.

So, I thought I would just talk for a moment (of the many things we could talk about) about the question of reopening America that is very much on everyone’s minds. The president advanced a week ago Thursday, his so-called plan to reopen America. His plan, of course, was no plan at all. There’s nothing in this plan that mentions the federal government. It doesn’t talk about what the federal role is, nothing about the federal government mobilizing the industrial apparatus of the country to manufacture the PPEs that our doctors and nurses and first responders and medical personnel need. Nothing in there about mobilizing the scientific community to settle on what are the best tests to advance the search for treatments or a vaccine. And nothing about the federal role and actually coordinating a federal-state response that would work to actually get us to a reopening of commerce, education, and social life.

What was the federal government’s plan? Well, Trump’s plan was a set of flabby guidelines for the states to take into account as they make their own decisions about whether or not to reopen. The guidelines were pretty much useless; they didn’t add any to the store of knowledge that already existed.

What we’ve seen over the last several days is absolute chaos as this scattershot, helter-skelter reopening—I don’t even know if I would call it a regime—reopening era, reopening push by the president unfolds in predictably disastrous ways. And what we’re going to see is recurring outbreaks and shutdowns because the plan is no plan at all.

Well, then we’ve got something more promising which is taking place in certain of the states or certain groups of the states that are getting together. There’s one in the Northeast that governor Cuomo has organized, there’s one in the Midwest that is emerging, there’s one in the West Coast that is, I think, unfolding. Most states still don’t belong to these informal groupings or compacts that are beginning to get together, but I think they’ve
got the right idea, which is that the states should not be in this brutal competition that the federal government has pitted them against each other in.

[00:08:55] Up until this point, the states have been competing, the counties have been competing, the cities have been competing for masks, for gloves, for gowns, for gowns, medical equipment, for the ventilators we need to save our people. That takes us back basically to the Articles of Confederation—after the American Revolution, but before we had a Constitution—when we really didn’t have an effective central government and the states all had their own trade policies, they were all in trade wars with each other, they were competing for equipment and material, there were border stops at citizens coming in from other states, and that kind of hostility that we've seen growing in other parts of the country. In any of it, the states, at least, have an idea that we need something formalized. Then, what we're getting (I think, I hope) in Congress is the formulation of a plan.

[00:09:50] Last Friday, I introduced the Reopen America Act with my co-sponsors Hakeem Jeffries from New York whose district has been very badly hit; Donna Shalala, who you know was the HHS Secretary in the Clinton Administration; Peter Welch from Vermont; Anna Eshoo. What’s in our plan? Our plan says that the federal government should not be stealing equipment from the states which it has been doing, it has been intervening and seizing shipments of materials that they need—the federal government should be coordinating the production of all of the PPEs and the health equipment that we need to get through the crisis.

[00:10:27] So it calls for— it provides for the creation of a Health Equipment Production Board based on the War Production Board of World War II and other periods of military mobilization. It also convenes a scientific advisory committee to make sure that we’re getting the best possible scientific advice.

[00:10:47] Then, what it says is that reopening will be a product of federal-state collaboration. We will invite all of the states to present reopening plans to the federal government. Those plans will be acceptable when two scientific conditions have been met in the state. One, the hospitals are able to meet the demand so they’re not overwhelmed, and two (and this is the critical one), the slope of the curve of transmission is downward rather than upward.

[00:11:19] What does that mean? The transmission rate is below one so that the average person who gets the disease is transmitting it to no more than one other person (hopefully to nobody) but 0.4, 0.8, 0.6—any of those will work that puts us on the downward slope. If
it’s above one—if it’s 1.4, if it’s 1.8, if it’s 2 or 2.1—we get what we’ve got now, which is pandemic conditions.

[00:11:44] America’s now gone over a million documented cases (it’s probably much higher than that), and our casualty rate in three months is larger than the number of people that we lost in more than a decade in the Vietnam War if you can believe that. So, that’s what happens when the rate is out of control. It has been brought down in a lot of places through the power of social distancing but, obviously, we don’t have a vaccine and we don’t have an effective treatment for it, and we’re losing lots and lots of our people.

[00:12:15] When the states have met those conditions, when they’re ready to apply and they can put in exactly what their regime of testing will be, what their regime of contact tracing will be, and what public protocols they will institute to make sure that we can maintain social distancing.

[00:12:37] Then, what are the rules that operate in different social domains (K-12, colleges, universities, the workplace, different sorts of social spaces, auditoriums, stadiums, and so on)? The role of the federal government will be to advise them, to coach them, to help them improve those plans, to approve them, and then to pay for them. The federal government will fund the reopening in various states.

[00:13:02] You can see how this is a real, systematic, methodical, and scientifically-based approach, as opposed to the madness we’ve got going on, which will plunge us immediately into a cycle of reinfection, outbreak, and shutdown. So, just like during the impeachment, the question is: Can the separation of powers work? Can the original Constitutional design function? Well, it worked in the House and it didn’t work in the Senate because of the derangement of the Republican Party.

[00:13:35] This crisis tests whether we can make American federalism work. Can we have a coordinated response between the central government (the national government) and the states all through the crisis? And that’s being tested under the worst possible conditions with a president whose conduct and behavior are increasingly deranged and out of touch with reality. So, that’s the test for us now. I’m very happy to yield back to you, Katrina, and take whatever questions or ideas people want to float.

Katrina vanden Heuvel [00:14:07] Jamie, thank you for reminding us of the test we face. I want to bring in John Nichols, who I introduced earlier so that you could have a brief conversation with John before throwing it open to the many participants on this call. Thank you, Jamie.
John Nichols [00:14:24] Yes, I’m glad to enter in, and thanks for having me, everyone. Hi to everybody out there. We’ve got the better part of 200 people with us now and it’s very exciting to have all of your questions come up that I’m seeing here. And I’ll integrate some of them even into the initial questions that I ask. And then we’ll go more directly. So, as we’re talking, don’t hesitate to put some questions into the Q&A section there.

[00:14:48] So, to Jamie Raskin: You alluded to this at the end of your comments, but I want to take you deep in for a moment here to the question of how the House of Representatives responds to the moment that we are in. And you have a view of the House of Representatives that is, in fact, not nearly a coequal branch that Congress is not just coequal, but that it has higher responsibilities. Could you give us just a moment on that? And then I’ll give you a couple of questions off it.

Jamie Raskin [00:15:23] Well, if you read the Constitution, you’ll understand that that’s gotta be the case. You know, the Preamble of the Constitution ("We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.") is followed immediately by all of the legislative powers of the Congress of the United States. Then you get—John, as you know—this detailed elucidation of all of the powers of Congress to regulate commerce among the states and with a foreign nation, the power to establish a post office which we need to be zealously enforcing and defending. At this moment, the power to regulate the Capital city intellectual property, naturalization, and immigration, on and on and on. All of that is in the legislative power. It’s the lawmaking power of the people that are passed to Congress.

[00:16:20] Then, you get to Article II, and what is the president’s main job? Well, the president’s main job is to take care that the laws are faithfully executed as commander in chief, not of the nation, not even of the government, commander in chief of the army and navy in times of actual war and insurrection and of the state militias when they’re called up. Basically, the president’s job is to enforce the laws that have been adopted by Congress, and all exceptions in Article II is how you impeach a president.

[00:16:50] So, I’d like to point out that Congress has the power to impeach the president and he doesn’t have the power to impeach us which I think tells you just about everything you need to know about the proper relationship between Congress and the president. And so, this whole period has been to get us to assert that basic relationship and the essential powers of Congress.
John Nichols [00:17:10] That’s what makes this period pretty frustrating because Congress isn’t in Washington. We have not had a major move toward remote voting, proxy voting, virtual hearings, things of that nature.

[00:17:28] So, Bob Goresage who’s on the call and one of our wiser thinkers really asks—and I’ll quote from Bob if I can read well here: “This is a shocking failure. The House can’t drive the agenda if it doesn’t find a way to be back in session.” So, talk to us about that for a moment. Tell us (a) your view on this, and (b) kind of a status update because I know there is some movement toward a possible proxy voting system.

Jamie Raskin [18:00] Yes, well thank you for that, John, and I appreciate that, Bob, and I agree totally. Look, it’s easy for me to say—it has been a little awkward for me because I live closer to the Capitol than any other member of the House. Except for Eleanor Holmes Norton, who doesn’t have a vote yet as an ongoing representative for DC. So, it’s easy for me to say, Let’s all be back here. But I’ve also said, Let’s be back if we can’t be back here in person, let’s have distance voting, either by proxy—and I’m happy as one of the local members to take people’s in, that’s a proxy without any discretion or any judgment on my part, just bringing the vote in—or let’s do it by Zoom and let’s do it by technology.

[00:18:46] When it was first suggested that we do that, there was a lot of outrage. People were saying we’ll be hacked, we’ll be vulnerable to foreign sabotage and all that kind of stuff. But look, when you’re on Zoom and when you’re using technology and you put it on CSPAN, everyone sees exactly what’s going on. So, if anyone tries to alter my vote or change my vote or whatever, somebody will see it and I’ll start shouting from the rooftops, that’s not how I meant to vote.

[00:19:15] So, I don’t think that’s a serious objection when we allow people to think through it, we can use the technology to make this happen and we’ve gotta use it. Because, otherwise, the natural advantage that the executive branch has is it’s one guy. No matter how deranged or incompetent he might be, it is just one guy as opposed to 535 people all shrieking in different ways.

[00:19:38] The technology can bring us back together to make sure we have a voice, that we’re having hearings, and we’ve got a vote, and that our votes are reported and publicly known. We can make this happen and we’ve got to do it.

John Nichols [19:50] Based on another question and I think it’s an important one here, that’s also a way that you can leverage the Senate. Because, if the House has a vote on an
issue and you can move through a package and vote for it, doesn’t that create pressure on the Senate to act? Especially if it’s something that’s very popular like, I don’t know, vote-by-mail?

Jamie Raskin [00:20:15] Yes, indeed. Vote-by-mail is a great example, but any of these spending packages should be originating in the House, if you think about it, because they’re money bills. So, they should start in the House and we should not be maneuvered into accepting just totally outrageous rip-offs that the Senate Republicans continue to tuck into the legislation like all of these tax loopholes and tax breaks that have been written in for the top 1 percent or the top 1 percent of the top 1 percent of the people, and that are loaded onto unemployment insurance and the small business relief in the PPP under these terrible conditions where nobody can legislate.

[00:21:02] So, all we can do is basically ratify what has taken place. I think there is growing strong sentiment in the House that we can not be maneuvered that way under these desperation conditions. Again, we’ve got to be here to fight for exactly the legislation we want.

[00:21:18] Now, having said that, the Republicans control the Senate. The Republicans control the White House. We know the Republicans actually control the Supreme Court so, even before COVID-19, we’re not bringing the strongest hand to the table because all we’ve got is the House. But we, at least, can be using all of the power we’ve got in the House to fight for the things that we believe in.

John Nichols [00:21:40] So, let me ask you about another power as well, which is the power of oversight. You sit on the Rules Committee and you participated last week in what will probably go down as one of two or three of the most bizarre debates ever held. It involved you sitting there wearing your mask, doing everything that the American people are asked to do, arguing with Jim Jordan about oversight. Tell us a little about what happened.

Jamie Raskin [00:22:10] Well, the Rules Committee had convened—originally, we thought we were going to be voting on this legislation to establish the ability of distance voting by proxy, that ended up getting pushed aside because the Republicans said let’s make this bipartisan and a group is forming to discuss it. The Rules Committee convened to talk about the motion of a bill to create a new committee on COVID-19 to oversee everything related to COVID-19: All of the spendings of the money, both through the big Treasury Department slush fund that was created as well as unemployment insurance and the hospital money, as well as overseeing reopening and testing, and so on.
The Capitol physician Dr. Monahan had issued a recommendation that all members should be wearing a mask when we come in. And the protocol that was basically evolving was you wear a mask when you’re in public places when you speak, you can remove the mask so you can be heard directly, and then you can put it right back on, and while you’re speaking, obviously people can be at a 10-feet distance that people can get away from you if they see that you’re speaking.

Well, Jim Jordan walks into the Rules Committee not wearing a mask. And we had, at that point, every Democrat and Republican wearing a mask, so I raised a point of order with Representative Jim McGovern saying, Are we not following a rule that members should be masked.” He explained what the doctor had said, and Jordan said I’m not violating any rule of the House, which is true. It’s not in the formal rule of the House, but it was issued by the doctor as a recommendation and it’s rude as hell and it’s dangerous.

Look, Jim Jordan doesn’t wear a jacket. If he doesn’t wear a jacket, I don’t care about that. That’s a fashion statement. but if he doesn’t want to wear a mask, that’s not a fashion statement, that’s a public health threat to everyone else. He’s making a threat to everyone else. So, I just said to him, as much as I could through the mask, Mr. Jordan, it’s not a statement of bravery that you won’t wear a mask, it’s a statement of your irresponsibility.

I invoked all of the nurses and doctors, saying, If you want to prove how tough and brave you are, go volunteer at the hospital for a day. That’s where people are really demonstrating courage. But that’s where you decide that you’re not going to wear a mask and you’re not going to follow other public health protocols in public, you’re just proving what a jerk you are. That’s my personal feeling on it.

John Nichols [00:24:40] He didn’t take it very well, though. There was really a back and forth there that was pretty intense and worthy of watching. I think you came out better in the discussion. One of the interesting was, at the core of that, you were arguing about oversight. This is one of the most frustrating things about Congress not being fully up to speed as virtual meetings, virtual hearings, and that. There’s a need for real-time oversight, isn’t there? Both in the president’s handling of this—which, I would argue, has been contemptible—and also, on this flow of all this money, but without sufficient oversight.

Jamie Raskin [00:25:25] Yeah, look, the Trump administration was set up from day one as a money-making operation. I mean, he has turned the presidency into an instrument of self-enrichment and, by extension, class-enrichment. We saw that with the
trillion-and-a-half dollar tax cut for the wealthiest people in the country that they did back in 2017. They don’t want any oversight over anything. That was one of the two counts of impeachment: the president was obstructing Congress and our ability to get information that we needed about his high Crimes and Misdemeanors.

[00:26:00] There’s an oral argument taking place this week on the DC circuit about this very point: whether we can even challenge the president’s refusal to be bound by the law. For example, we appropriate money for particular purposes. He reallocates the money for the wall and doesn’t listen to us. Then, we want to go to court to enforce what the law is, and then they say we don’t have any authority to go to court. There’s no standing where it’s a political question or the courts can’t hear it.

[00:26:30] They’re trying to construct a house of legal cards that creates a monarchy in the country. So, it is about the oversight. They would obviously be allowed to spend hundreds of billions of dollars for the airline industry, the cruise industry, and the hotel industry without any oversight about where the money is going. It’s unacceptable. I mean, that can’t be right. That’s an absolute defeat of the Constitutional design and the power of the people that are invested in Congress.

[00:27:02] Madison had this beautiful statement, where he said knowledge will forever govern ignorance, and those who mean to be their own governors must arm themselves with the power that knowledge gives. In a democracy, knowledge is everything. We’ve got to know where every penny, every dollar is going that we’ve allocated for very specific public purposes.

**John Nichols** [00:27:25] We’ve got a questioner on our Q&A who comes right off everything that you said about urging Congress to repeal or amend the tax cuts. What he asks is that, in this emergency moment, is that something that could be raised? Would it stand a chance?

**Jamie Raskin** [00:27:45] It could probably be passed in the House with overwhelming democratic support. The problem, of course, is that Donald Trump considers this his signal success, his big triumph.

[00:28:00] Remember, that the basic scenario here is we have hundreds of bills that are sitting on Mitch McConnell’s desk: the background check for gun purchases sitting on his desk, the $15 minimum wage hike sitting on his desk, gerrymandering reform, everything that’s in HR1, campaign finance reform, all of it sitting on McConnell’s desk. It’s not moving.
It’s not as if McConnell wants to send it to be doing anything other than confirming a bunch of midnight right-wing judges from the Federalist Society who will be there to cement the legislative victories that they’ve had and then try to knock down anything that they consider to be antithetical to GOP orthodoxy.

John Nichols [00:28:55] There’s a question coming from Jennifer in Alabama. It relates to what you were talking about and it will lead us into a couple more questions from other folks here. But she asks something that I think goes to your heart. She says, “Do you think part of the problem in all of this is that somewhere along the way, we stopped teaching civics in a way that helped people to actually understand that system of checks and balances and the role of Congress?” And that it has sort of infected all of our politics now so we’ve kind of got into this imperial president mode where it’s all around the presidency and it’s very little around the role of Congress.

Jamie Raskin [00:29:35] I agree completely with that. And you know, John, that I wrote a book for high school kids called We The Students which is about all the Supreme Court decisions that affect kids in public high schools (locker searches, drug testing, the segregation and desegregation, Title IX and so on) with the idea that we’ve got to engage young people while they’re in school about how you become a citizen. Instead, in large parts of the country, what we’ve seen is an absolute demolition of civic education and critical thinking skills, generally.

And obviously, the Republican Party, now—which is operating like a deranged death cult—is set up on the principle that you don’t teach people science, you don’t teach people to use reason, and you don’t teach people critical thinking skills. When I turn on Fox News, the amazing thing is how replete with fallacy and dogma and lies everything is, and people just ingest that. It’s a really scary thing for democracy, and it runs totally antithetical to what the founders were all about.

The Founders were deeply flawed in their own ways and were centrally made a compromise with the original sin of the country, which was slavery and the dispossession of the Native Americans. But these were people who advanced ideas about reason and about science and about logic, and about not being governed by religious dogma.

What’s amazing about the GOP is now governed by religious and theocratic dogma, although it’s led by people who have nothing close to what anyone would recognize as a real religious faith or a real religious belief. It’s just used for the purposes of thought control. It’s like a religious cult where people no longer believe in the dogma, but they get everybody at the bottom to go with it. I’ve said to some of my Republican colleagues, You
guys might as well be selling incense out of Dallas International Airport with the way that they've suspended critical thought and they will go along with anything that Donald Trump tells them.

John Nichols [00:31:54] Well, speaking of suspension of critical thought, there's also—you mentioned Donald Trump—but there's also money in politics and the influence of corporate power. Nancy Jacobson suggests that she's very concerned about reports that the Republicans in the Senate will—on behalf of its corporate donors, or on behalf of their corporate donors—seek to add a provision to the next stimulus bill or whatever comes out relieving corporate employers of liability on COVID-19 issues.

[00:32:27] I've been seeing a lot of discussion of this lately, sometimes put into the frame of, Oh, well, this will be just a part of what we have to do to get going. But isn't that really—as a law professor and a lawyer, this is a really critical thing isn't it, these liabilities?

Jamie Raskin [0032:43] Well, Mitch McConnell brought it up yesterday. I mean, both he and Trump seem to be putting out what their bargain is going to be. We, obviously, want hundreds of billions of dollars to rescue the states and local governments, and we would like to see a real national reopening plan so we can get out of this nightmare that Trump has plunged us into. Trump seems to want to attack sanctuary cities. That's what he's talking about. But McConnell—with his eye always on the demands of the largest corporations—he wants tort reform, he wants to destroy the legal liability of big companies, and so on.

[00:33:28] I've just drafted a letter about this specifically related to Big Gas, Big Coal, and Big Oil. The carbon industry would love to use this as an opportunity to sneak in an absolution for anything they've ever done, so they can't be sued for the hundreds of billions or trillions of dollars in damages that they've inflicted on our society in our economy. So, the answer is yes.

[00:33:57] The corporate powers want to use this as an opportunity to get a get-out-of-jail-free card for everything that they've ever done. And we obviously have to fight that with everything that we've got. That, in itself, is a massive transfer of wealth and power upwards.

John Nichols [00:34:13] It's a very frustrating thing because you say you have to fight that, but it's also this question of bargaining power between the House and Senate. So, at one time, you have to fight horrible ideas that will do tremendous harm, while at the same time trying to bargain for good ideas that are needed. When you strike that balance, is it going to
be possible—and this is something I’ll let you talk about more broadly as it’s something that’s a real passion of yours and that is vote-by-mail. Is it going to be possible in this next bargain to do the two things that I would argue are necessary for defending democracy? And those are to save the Postal Service and get resources out to the states (at least as an option) to go to a universal vote-by-mail or some sort of broad vote-by-mail system in the fall.

Jamie Raskin [00:35:03] John, thanks for raising both of them in their links, obviously, because you don’t have vote-by-mail if you don’t have a Post Office. And the GOP has been doing everything in their power to dismantle or privatize the Post Office and to put it into a straitjacket. But look, we fought for $4 billion in the original CARES Act to be distributed through the Election Assistance Commission to the states for the purposes of building a strong vote-by-mail option in all of the states and fortifying direct voting to make sure that where there is voting in person, people can do it safely.

[00:35:48] The Republicans opposed all of it, and we ended up with $400 million, which was one-tenth of what we asked for, but it was something and we were able to put some money in the pipeline. We’re going to come back again to ask for all of the money that we really need to make this happen. It is an emergency, and it should be a bipartisan or nonpartisan or transpartisan commitment that we have a real election where everybody’s voting rights are protected and everybody can participate and get their vote counted.

[00:36:20] President Trump has voted by mail in New York and in Florida. We’ve got a number of states—including Oregon, including Utah—that have moved to primarily vote-by-mail systems, and the voter turnout rates are much higher than the average all over the country. I think, in Oregon, it’s over 70 percent of the people are voting by mail. We can make this work, but for Trump, it’s just one more reason for him to hate the Post Office. He has a whole conspiracy theory about Jeff Bezos and how the Post Office is carrying some Amazon packages for them at too a cheap rate, and so on. Everything, for him comes back to his own self-interest and his own pet hatreds.

[00:37:07] There are enough Republican legislators, secretaries of state, and governors who’ve bought into vote-by-mail, who are willing to be honest about it that, I think, we can form a bipartisan consensus in Congress that we’ve got to advance vote-by-mail. That’s gonna be the way to save this election from the nightmare scenario that we saw in your beloved state, John. I mean, that was just sickening to see what the Republican Supreme Court did overriding the governor’s executive order compelling the election to go forward in a way where, I think, dozens of precinct polling places were not open because they couldn’t get anybody to go out and work them. Then we saw, in Milwaukee, I think it was
four or five (you'll correct me) places that were open for the entire city, and those huge lines wrapped around the block for three or four hours of people lining up to go vote.

[00:37:57] Those citizens are my heroes and what they did was amazing in that election, but we should never subject American citizens to that test of, do you love voting and democracy enough that you're willing to put your own health and your family's health and your neighbors out there risk like that? I think that they found 17 or 20 people who came down with COVID-19 from, presumably, that day.

**John Nichols** [00:38:23] Brother, it's up to 52 as of this morning. 52 voters and poll workers, according to the State Department of Health, who have tested positive and we're at least in polling places that day they're tracking it. The fact of the matter is, these numbers are real.

[00:38:38] The one concern that I follow up—and we have a couple of questions in this area—is on getting to vote-by-mail. There's a timeline on that. Congress has got to move pretty quickly to get resources out to the states to make this big change. And Brennan Center says you're looking at about $2 billion is needed. It's a drop in the bucket compared to the trillions. But there's not a lot of time, is there?

**Jamie Raskin** [00:39:05] Well, we thought we were coming back May 4. It looks like we're coming back May 11 now (a week from Monday). For the people who are fired up about this, and most of the Democrats are. I'm the vice-chair of the House Committee on administration, which oversees elections, and we're all fired up about it there. We understand that this is a critical moment. I mean, this is it. It's a life-and-death issue, as you say. It is a democracy-or-death issue.

[00:39:37] We've got to fight for our democracy as if our lives depended on it, which they do. This is the moment that we're in, and everything is converging on this last big package, which is—you could either call it the COVID 4.0 or the CARES Act 2.0. I think Speaker Pelosi is starting to call it the Heroes Act because most of the money is going to be going to the states and the counties for the cops, the firefighters, the nurses, and the frontline responders. But there's a lot of other stuff that we want to happen here, including about reopening and about the democracy.

[00:40:15] As you say, nothing is more central to our future than the democracy provisions, the election provisions of this because, without that, they'll steal everything from us. At this point in the Trump administration, I think everybody understands you cannot put anything past them. Anything.
**John Nichols** [00:40:33] When you say you can't put anything past them, what do you mean?

**Jamie Raskin** [00:40:38] Well, I can imagine them staging a whole series of provocations and, you know, confusing moments like they did in Bush vs. Gore at Florida (remember the [Brooks Brothers] Riot, where they had a bunch of paid GOP operatives, claiming that their voting rights were being violated), and then using those incidents as a pretext for state legislators, Republican-controlled state legislatures simply reclaiming their Article II powers and saying we're going to appoint the electors for Trump because it's too foggy here in Wisconsin, North Carolina, or Ohio, to know who really won. So, we're just going to have a party line vote and appoint the electors, and give them to Trump.

[00:41:20] I mean, there was basically an invitation from the right-wing of the Supreme Court to do that in Bush vs. Gore, where they wrote—as you know, of course—there is no individual constitutional right of any citizen to vote. The power belongs to the states under the Electoral College, which raises the larger problem of why we've got to fight to get out of the Electoral College system the way it's understood now, and get to a national popular vote for president. In the meantime, we've got a foot we've got a fight for a fair count of what the popular vote is in every state and not allow them to get away with any mischief.

**John Nichols** [00:42:00] That makes this a very central issue. Let's go on to some economics because we've got a lot of questions in that area. One of our callers (or one of our chatters) says that, “With something like 8 to 10 million young Americans who graduated from high school and college this spring into a wildly uncertain future and depression level unemployment, is anyone in Congress considering a proposal for a National Service Corps?” You know, some sort of– working on environmental issues, climate issues, infrastructure. I mean, this is going back to straight into FDR, New Deal type response, but we're talking about a Great Depression, potentially, might require.

**Jamie Raskin** [00:42:39] Yes, indeed. A letter went out—I think we had 40 or 50 signers—calling for a revival of national service. Look, if we're going to do what South Korea and the other countries that have successfully combated COVID-19 have done, we're going to need an army of contact tracers. What does that mean? If somebody comes down with the disease, a contact racer will immediately interview them on the phone and say, “Tell me every place you've been in the last two weeks. Give me the names, the emails, and the phone numbers of everybody you've been in contact with. I'm going to call them up.”
We've got to put the virus on the run. We've got to go on the hunt, but that's going to take hundreds of thousands or even millions of people. And we happen to have millions of unemployed people and millions of talented unemployed people, and all of these wonderful young people who have just gotten out of high school and college. We're looking at a bleak future if we don't take seriously mobilizing them as a force in what the president called a war or wartime conditions against the virus.

So, there's a lot to do. There were, I think, around 3 million applications for people to become census workers, census takers. They hired somewhere around a half a million, maybe 600,000 of them. That's two and a half million people who are saying I want to do work of counting Americans. I think most of them would probably be interested if we got back in touch with them and say, Well, we were not able to hire everybody for the Census, but how would you like to be a contact tracer and get involved in this public health effort? So, I think that we need to take very seriously the whole concept of national service and using government resources to put people to work through the crisis.

President Trump has been talking about the Defense Production Act and, you know, some of these different measures; you've referenced them somewhat. It seems that the president is, at this point, abusing some of that power, like telling meatpacking plants to stay open when they are unsafe, and things like that. One of the people contacting us, Greg basically says, “How should we think about it? It's obviously such a critical tool. Are there ways that Congress should be defining its use?”

Well, it's a great question. I mean, Donald Trump has two basic modes: Either he's like a moviegoer, he's a TV-watcher, and he's just watching it on TV. And he's commenting on this person or that person and he'll heckle somebody and say, “You've gone too far. Open your stores or open your businesses,” which is just—when you think about it in formal governmental terms—it's just meaningless.

Or, he's King Kong, and he's claiming, “I've got all the power and I'm going to boss everybody around. I'm going to tell the states exactly what to do,” which is also ludicrous and the Supreme Court rejected in the steel seizure case, when President Truman—with far more justification than Trump—tried to take over the steel plants in order to, you know, to continue war production during the Korean War. The Supreme Court said, “You can't do that. That's up to Congress to decide and Congress has not given you the power to do that.”

Congress has also not given Trump the power to start bossing states around in reopening commerce or whatever. Even the state governors can order a business to open.
That’s up to the business owner, whether or not they’re going to open or not. So, all of it is based on a whole bunch of constitutional fallacies.

[00:46:07] Look, what we really need is to get back to basics. We’re in a crisis, and we are one nation. We’ve got to learn to bring the federal government together with the states. The way we usually do it, and we should be doing it, is through the spending power. We can say, “There’s a right way to reopen and a wrong way to reopen, and we’re going to follow science, and we’re going to follow the public health experts, and we’re going to help the states come up with regional compacts, and we’re going to give them the best advice, and then we’re going to pay for it.”

[00:46:38] That’s what the federal government should be doing, instead of what Trump does, which is either watching TV and throwing popcorn at people or saying “I’m the boss, I’m King Kong, I’m going to step on everybody.” And then the next day he goes back to being an innocent bystander.

**John Nichols** [00:46:53] We’ve got you talking about Congress seeing a maximum of this power. We have several questions, a variety of different ones—from John, from Mary, from some other folks on the chat—about the incredible power that the Federal Reserve is exercising right now, and the lack of congressional kind of oversight of that. And, you know, just literally issuing money and things of this nature. Are there ways that Congress can claw back a little bit of influence and authority there? Because it does seem like we have, sort of, these two separate tracks, right? With the Fed shoring up Wall Street, and we see, you know, like stocks going up and stuff like that. And then Congress over here talking about unemployment and all these other issues.

[00:47:36] Absolutely. The lawmaking power belongs to Congress, and it cannot delegate away its lawmaking power. There’s something called the Nondelegation Doctrine. Congress can’t say, “Well, there’s a problem out there, but we don’t know how to deal with it, so we’re going to delegate it to somebody else, and let them pass the laws.” No. All of the lawmaking power belongs with the House and the Senate. They’ve got to come together bicameral, they passed legislation, and it goes to the president.

[00:48:07] So, I think that the Fed could really be pushing the limits of the Nondelegation Doctrine if it is just making up its own rules as it goes. I think that we need to tighten the reins, and we need to make sure that all of the money is subject to congressional oversight, that all of the money is subject to congressional rules. You know, we set up an oversight panel in the original CARES Act and an inspector general in the Treasury Department.
President Trump and his signing statements rejected the constitutionality of what we've done. So we've got to fight for that.

[00:48:46] But we also put on some very specific strings on the money coming out of there. For example, the money cannot be used for stock buybacks. The money cannot be used for CEO and other executive bonuses. The money cannot go to the president's family's own businesses or any member of Congress's businesses, for that matter. Those are congressional strictures that need to apply to all of the money that's being spent out there. And we're gonna have to use every oversight apparatus we've got: the Oversight Committee, the new committee that has been set up under Jim Clyburn to oversee just COVID-19 related questions, as well as the bicameral bipartisan committee, which they're still no Chair of and then looks like, you know, maybe republicans are blockading the appointment of a Chair so it can't do an oversight.

[00:49:40] Amazingly, when Jim Jordan and I had our back and forth about the mask and everything if it was about oversight, and he was saying, “No, we don't need any more oversight.” He said, “There are eight committees that could do oversight on COVID-19, we don't need a ninth.” I asked him if he remembered how many committees did investigations into Benghazi and of course he didn't remember. There were 10, and his was the 10th one. And they spent millions and millions of dollars to find that there was no wrongdoing by Hillary Clinton there. And yet, he went on a long diatribe by defending what they've done in Benghazi. Gee, what's more important to have another Benghazi investigation to find that there had been no government misconduct, or to follow the trillions of dollars that we're having to spend to clean up after the chaos created by Donald Trump?

[00:50:28] We're getting toward our closing moments here, but we've got just a couple of quick things I want to bring in. Jamie, you sound like a very honorable and thoughtful congressman here, law professor, and all that. But really, you're a political junkie, who is fascinated by elections and politics. And so, Michael from Suffolk County out in Long Island asks, you know, says put your pundit hat on here. This is an incredibly turbulent moment in that– What do you think the political playout of this will be as regards control of the House, control of the Senate, and host of other politics?

[00:51:07] Well, I think that we are headed for a dramatic, political, and moral landslide election. Certainly, the greatest of our lifetime. So, the landslide partm I've got no doubt about. It’s the election part that I’ve got my questions about. Will they allow us to actually have an election? Will there be staged provocations? And will the Republicans be up to all of their old tricks in voter suppression in throwing people off of the voter rolls, and moving elections around closing polling places, all those kinds of things? Well, you know, Hillary
beat Trump by three-and-a-half million votes back then, before Trump brought the country to its knees in every sense economically, politically, in the eyes of the world.

[00:52:00] John, there are people abroad who are saying we've felt a lot of things towards America—love, hate, fear, and aberration—but we never felt pity before. We are being pitied by people around the world because of the way that Donald Trump has wrecked the processes of government. I think it's going to be perfectly obvious to the American people—to the people who can see it who can still exercise their Painian common sense. If we can have a real election, where there's a mail-in ballot, and people can safely cast their votes, we are going to have a landslide. Now, we need to organize. We need to use all of these new mechanisms from Zoom on down to learn how to organize people.

[00:52:45] My Democracy Summer project with high school and college kids is up and running, and we're going to be doing it online, and all of you are going to be asked to come and participate. We're going to have the greatest political thinkers and leaders and activists in the country addressing America's high school and college kids, and we're going to open it up. Then, during the week, since we're not able to knock on doors and canvas, the Democracy Summer kids are going to be doing phone calls to senior citizens and others, basically conducting what we're going to call a civic checkup saying to them, Does everybody have access to food in your house? Do you need groceries? Do you have all of the prescription drugs and health you need? Then, putting them in touch with people if there's a mental health problem who you're in touch with. And then we're going to ask them, Have you completed your census form? Can you make sure you go do your census? Is there anybody there who needs to register to vote? We're going to explain to you how you get people registered to vote. Do you want to get involved in the campaign? Here's how you get involved in the campaign.

[00:53:45] So, that's the way that we're going to try to use the awkwardness of this moment to mobilize a telephone army of high school and college kids in Democracy Summer to help get the vote out and to make sure people have an understanding about everything they need to be doing in 2020, which still—despite all of the debacle and catastrophes—I'm calling 2020 the year of perfect vision. We've got to have perfect vision about what has befallen the Republic and what we need to get out of it.

**John Nichols** [00:54:12] To clarify one thing I know from our previous conversations: You don't doubt that there will be an election in November. What you're worried about is whether it will be a high turnout election. You know, a real reflection of where the American people are.
Jamie Raskin [00:54:24] Correct. The government— the president has no power to cancel the election. I know people are afraid of that. I’m sure it’s occurred to him, but he has no power to do it. It’s going to be up to the states. I’m most concerned about mischief by Republican state legislators who are still under the spell of Donald Trump trying to cast their electors in a way that’s contrary to the popular vote of the people in the state.

[00:54:51] One-minute answer from you here before we wind down: One of the most poetic things that you’ve done over the last a month or so has been to drive in from your home in suburban Washington to the Capitol, and sit in the empty House chamber and essentially call it into session. If I’m correct, tell us why you do that?

Jamie Raskin [00:55:20] Well, we have to have pro forma sessions because of different constitutional requirements in the agreement between the House and the Senate, and so on. So, in these pro forma sessions, bills can be sent back and forth between the House and the Senate, bills can be introduced and, if Speaker Pelosi is not in town, someone’s got to go down there. And as I was saying, I can drive straight down North Capitol Street. These days, it takes me about 15 minutes to get down to the Capitol. Now we’re, you know, we don our masks, I put on my mask. I’ve got a great Maryland mask. I should have it in front of me so I could audition it for you guys.

[00:56:03] I also, by the way, have political masks that were getting made which say, “Let America breathe again—Vote Democrat,” and that’s going to be the official Democracy Summer mask. But I go down and then, you know, I do my part. I mean, I don’t have to spend time on airplanes the way my colleagues do, and so I’ve got greater access to the Capitol. So when they asked me to come down to be the Speaker Pro Tem, I’m always delighted to do it.

John Nichols [00:56:30] And you do it well. To all of our folks who have joined us today that are part of 200 folks, and to Sarah Burke, Peter Rothberg, Aaron O’Meara, and Katrina vanden Heuvel who helped to put this all together, as well as on a Hyatt and all sorts of other folks, a big thanks. I want to close off by thanking you, Jamie Raskin, for joining us and also, thanking you for the seriousness that you brought to defending the Constitution, even in these very challenging times.

Jamie Raskin. [00:57:03] Thank you, John. Thank you, Katrina. Thank you, Peter. Thank you to the whole Nation family. Hang tough, everybody. Stay safe, stay healthy, and let’s make it through this thing.